

MDR Tracking Number: M5-04-0730-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 11-03-03. Dates of service 10-17-02 through 11-01-02 were not timely submitted per Rule 133.308(e)(1).

The IRO reviewed therapeutic exercise, joint mobilization, myofascial release; electrical stimulation, required reports and hot/cold pack therapy rendered from 11-08-02 through 04-07-03 that were denied based "U".

The Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. Consequently, the requestor is not owed a refund of the paid IRO fee.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was not the only issue** to be resolved. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 01-16-04, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14-days of the requestor's receipt of the Notice.

The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MARS	Reference	Rationale
11-04-02 through 11-15-02 (4 DOS)	97010	\$64.00 (1 unit @ \$16.00 X 4 DOS)	\$0.00	R	\$11.00	96 MFG MEDICINE GR(I)(9)(a)(ii)	R – Services denied for compensability. BRC on 12-18-02 established compensability. Requestor submitted relevant information to support delivery of service. Reimbursement recommended in the amount of \$11.00 X 4

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MARS	Reference	Rationale
							DOS = \$44.00
11-04-02 through 11-18-02 (6 DOS)	97032	\$120.00 (1 unit @ \$20.00 X 6 DOS)	\$0.00	R	\$22.00	96 MFG MEDICINE GR(I)(9)(a)(iii)	R – Services denied for compensability. BRC on 12-18-02 established compensability. Requestor submitted relevant information to support delivery of service. Reimbursement recommended in the amount of \$20.00 X 6 DOS = \$120.00

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MARS	Reference	Rationale
11-04-02 through 11-18-02 (4 DOS)	97265	\$180.00 (1 unit @ \$45.00 X 4 DOS)	\$0.00	R	\$43.00	96 MFG MEDICINE GR(I)(9)(c)	R – Services denied for compensability. BRC on 12-18-02 established compensability. Requestor submitted relevant information to support delivery of service. Reimbursement recommended in the amount of \$43.00 X 4 DOS = \$172.00
11-04-02 through 11-18-02 (4 DOS)	99213	\$200.00 (1 unit @ \$50.00 X 4 DOS)	\$0.00	R	\$48.00	96 MFG E/M GR(VI)(B)	R – Services denied for compensability. BRC on 12-18-02 established compensability. Requestor submitted relevant information to support delivery of service. Reimbursement recommended in the amount of \$48.00 X 4 DOS = \$192.00
11-04-02 through 11-18-02 (6 DOS)	97110	\$840.00 (4 units @ \$140.00 X 6 DOS)	\$0.00	R	\$35.00	96 MFG MEDICINE GR(I)(9)(b)	R – Services denied for compensability. BRC on 12-18-02 established compensability. See rationale below.
11-11-02 through 11-18-02	99080-73	\$30.00 (1 unit @ \$15.00 X 2 DOS)	\$0.00	R	\$15.00	Rule 133.106(f)	R – Services denied for compensability. BRC on 12-18-02 established compensability. Requestor submitted relevant information to support delivery of service. Reimbursement recommended

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MARS	Reference	Rationale
							in the amount of \$15.00 X 2 DOS = \$30.00
11-20-02 11-22-02 11-25-02	97010	\$48.00 (1 unit @ \$16.00 X 3 DOS)	\$0.00	E	\$11.00	96 MFG MEDICINE GR(I)(9)(a)(ii)	E – Services denied for entitlement. BRC on 12-18-02 established entitlement. Requestor submitted relevant information to support delivery of service. Reimbursement recommended in the amount of \$11.00X 3 DOS = \$33.00
11-20-02 11-22-02 11-25-02	97032	\$60.00 (1 unit @ \$20.00 X 3 DOS)	\$0.00	E	\$22.00	96 MFG MEDICINE GR(I)(9)(a)(iii)	E – Services denied for entitlement. BRC on 12-18-02 established entitlement. Requestor submitted relevant information to support delivery of service. Reimbursement recommended in the amount of \$20.00 X 3 DOS = \$60.00
11-20-02 11-22-02 11-25-02	97110	\$420.00 (4 units @ \$140.00 X 3 DOS)	\$0.00	E	\$35.00	96 MFG MEDICINE GR(I)(9)(b)	E – Services denied for entitlement. BRC on 12-18-02 established entitlement. See rationale below.

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MARS	Reference	Rationale
11-22-02 11-25-02	97265	\$90.00 (1 unit @ \$45.00 X 2 DOS)	\$0.00	E	\$43.00	96 MFG MEDICINE GR(I)(9)(c)	E – Services denied for entitlement. BRC on 12-18-02 established entitlement. Requestor submitted relevant information to support delivery of service. Reimbursement recommended in the amount of \$43.00 X 2 DOS = \$90.00
11-25-02	99213	\$50.00	\$0.00	E	\$48.00	96 MFG E/M GR(VI)(B)	E – Services denied for entitlement. BRC on 12-18-02 established entitlement. Requestor submitted relevant information to support delivery of service. Reimbursement recommended in the amount of \$48.00

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$	Reference	Rationale
TOTAL		\$2,120.00	\$0.00				Requestor is entitled to reimbursement in the amount of \$789.00

RATIONALE: Recent review of disputes involving CPT code 97110 by the Medical Dispute Resolution section as well as analysis from recent decisions of the State Office of Administrative Hearings indicate overall deficiencies in the adequacy of the documentation of this code both with respect to the medical necessity of one-on-one therapy and documentation reflecting that these individual services were provided as billed. Moreover, the disputes indicate confusion regarding what constitutes “one-on-one”. Therefore, consistent with the general obligation set forth in Section 413.016 of the Labor Code, the Medical Review Division (MRD) has reviewed the matters in light of the Commission requirements for proper documentation.

The MRD declines to order payment for code 97110 because the daily notes did not clearly delineate the severity of the injury that would warrant exclusive one-to-one treatment.

ORDER

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20-days of receipt of this order. This Decision is applicable for dates of service 11-04-02 through 11-25-02 in this dispute.

This Findings and Decision and Order are hereby issued this 29th day of June 2004.

Debra L. Hewitt
Medical Dispute Resolution Officer
Medical Review Division
DLH/dlh

IRO Certificate #4599

NOTICE OF INDEPENDENT REVIEW DECISION

January 11, 2004

Re: IRO Case # M5-04-0730-01 amended

Texas Worker’s Compensation Commission:

___ has been certified as an independent review organization (IRO) and has been authorized to perform independent reviews of medical necessity for the Texas Worker's Compensation Commission (TWCC). Texas HB. 2600, Rule 133.308 effective January 1, 2002, allows a claimant or provider who has received an adverse medical necessity determination from a carrier's internal process, to request an independent review by an IRO.

In accordance with the requirement that TWCC assign cases to certified IROs, TWCC assigned this case to ___ for an independent review. ___ has performed an independent review of the proposed care to determine if the adverse determination was appropriate.

For that purpose, ___ received relevant medical records, any documents obtained from parties in making the adverse determination, and any other documents and/or written information submitted in support of the appeal.

The case was reviewed by a Doctor of Chiropractic who is licensed by the State of Texas, and who has met the requirements for TWCC Approved Doctor List or has been approved as an exception to the Approved Doctor List. He or she has signed a certification statement attesting that no known conflicts of interest exist between him or her and any of the treating physicians or providers, or any of the physicians or providers who reviewed the case for a determination prior to referral to ___ for independent review. In addition, the certification statement further attests that the review was performed without bias for or against the carrier, medical provider, or any other party to this case.

The determination of the ___ reviewer who reviewed this case, based on the medical records provided, is as follows:

History

The patient injured his lower back in ___ when he lifted a case of cold drinks. He has been treated with physical therapy, medication, lumbar epidural steroid injections, work hardening, chiropractic care and surgery.

Requested Service(s)

Therapeutic exercise, joint mobilization, myofascial release, electrical stimulation, required reports, hot/cold pack 11/8/02 –4/7/03

Decision

I agree with the carrier's decision to deny the requested services.

Rational

The patient received extensive conservative treatment, including some 80+ off ice visits, from the treating D.C. prior to the dates in dispute, without relief of symptoms or improved function. The failed treatment resulted in three lumbar ESIs initiated on 2/5/03 that had poor results. The patient ultimately had to have a microdiscectomy on 4/11/03.

The patient received a fair trial of conservative care prior to the dates in dispute without relief of symptoms or improved function. Treatment must be reasonable and effective in relieving symptoms or improving function, and it had failed to be so. The continued use of failed conservative modalities does not justify additional non-effective therapy. Eighty or more treatment dates prior to the dates in dispute was excessive and inappropriate and exceeded accepted criteria. The treating D.C. should have realized after 24-30 visits that his treatment protocol was ineffective and the patient should have been referred to a neurosurgeon or an orthopedic surgeon. The records provided for this review do not contain documentation that explains the need for ongoing treatment, or explains how the treatment was benefiting the patient. The records lack objective, quantifiable findings to support treatment.

This medical necessity decision by an Independent Review Organization is deemed to be a Commission decision and order.